

### Remarks

Claims 1, 4-21, 24-41 and 44-60 remain pending in the application and currently stand rejected. No claims are amended herein. The Assignee respectfully traverses the rejections and requests allowance of claims 1, 4-21, 24-41 and 44-60.

### Preliminary Note Regarding Arguments for Dependent Claims in Previous Response

The Assignee notes that several arguments in the previous response that were specifically presented in support of dependent claims 6-8, 12-14, 18, 26-28, 32-34, 38, 46-48, 52-54 and 58 were not addressed in the final Office action. Thus, the Assignee respectfully requests that these arguments, which are repeated below, be addressed in an advisory action.

### Claim Rejections Under 35 U.S.C. § 103

Claim 1, 4-8, 15-18, 21, 24-28, 35-38, 41, 44-48 and 55-58 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,829,642 to Giroir et al. (hereinafter "Giroir") in view of U.S. Patent No. 6,807,515 to Vogel et al. (hereinafter "Vogel"). (Page 2 of the final Office action.) Also, claims 9-12, 19, 20, 29-32, 39, 40, 49-52, 59 and 60 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Giroir in view of Vogel and U.S. Patent No. 6,061,722 to Lipa et al. (hereinafter "Lipa"). (Page 4 of the final Office action.) Finally, claims 13, 14, 33, 34, 53 and 54 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Giroir in view of Vogel and U.S. Patent No. 6,553,568 to Fijolek et al. (hereinafter "Fijolek"). (Page 7 of the final Office action.) The Assignee respectfully traverses the rejection in light of the following discussion.

### *Claims 1, 21 and 41*

Claim 1 provides a method of operating a probe device for testing a broadband wireless system, the method including, in part, the operation of "receiving an instruction into the probe device *through a wireless broadband router coupled with the broadband wireless system* to execute a plurality of tests, *wherein the probe device and the wireless broadband router are located on a customer premises....*" (Emphasis supplied.) Claims 21 and 41 provide similar limitations.

Regarding claim 1, the final Office action indicates that Giroir teaches “executing the plurality of tests *wherein the broadband wireless system is located on a client-side* (col 13, lines 51-55).” (Page 2 of the final Office action; emphasis supplied.) Further, the final Office action indicates that “Giroir does not explicitly indicate receiving an instruction into the probe device through a wireless router to execute a plurality of tests. Vogel et al teaches a wireless network monitoring system in which *an instruction is received into the probe device through a wireless router to execute a plurality of tests*. (Fig. 4 numerals 400-406, col 2, lines 15-23.)” (Page 3 of the final Office action; emphasis supplied.) Further, the final Office action states that “it is true that neither Giroir nor Vogel *separately* teach the limitation in question. However, Giroir teaches the above-mentioned system on a client-side while Vogel teaches the instruction being received through a wireless router.” (Page 8 of the final Office action; emphasis in original.) The Assignee respectfully disagrees, as neither Giroir nor Vogel teach or suggest these limitations as alleged in the final Office action.

*A. Giroir*

First, while the final Office action maintains that Giroir teaches “executing the plurality of tests wherein the broadband wireless system is located on a client-side,” this particular limitation is not recited in claims 1, 21 and 41. Instead, claim 1 provides for *the probe device and the wireless broadband router being located on a customer premises*, which Giroir does not teach or suggest.

Generally, Giroir discloses “a method and system of selecting a server from a plurality of servers for accessing Systems Network Architecture (SNA) applications from a client in an Internet Protocol (IP) network.” (Abstract.) In normal operation, a TN3270 Client 601 program executes within an end-user workstation (Fig. 4; column 8, lines 57-60) in order to allow the user access to an SNA application via a TN3270 server (Fig. 6; column 9, lines 47-63). On the other hand, probe software executing on a probe client *simulates* a user client “by requesting a connection to an SNA Application through a target TN3270 Server....” (Column 10, lines 42-44.) Fig. 7 depicts the connections between the *probe* client 702 of a Distributed Measurement System 701, a TN3270 server 704, and an SNA application 706 employed to perform the testing. (Column 10, lines 17-31.)

More specifically, Giroir employs an “Availability and Response Time Probe ... to

gather measurements on the availability and response time of TN3270 Servers.” (Column 10, lines 17-19.) “[T]he Probe mechanism: (a) connects to SNA applications through each TN3270 Server; (b) measures associated response time; and also (c) detects TN3270 Servers failures and the degradation of the response time.” (Column 10, lines 59-64. See also Fig. 8, and column 10, line 65, to column 11, line 37.) An Autoserver code indicating the best TN3270 server for a user client to employ for a particular application is then created within the Autoserver URL system based on the results of the tests. (Fig. 12 and column 12, line 64, to column 13, line 9.) The user client connects to the Autoserver URL system upon start-up to determine the optimum server for accessing a particular application. (Fig. 5 and column 9, lines 16-26. See also column 7, lines 5-8, and column 14, lines 4-8.)

Fig. 10 provides another view of client probes 1010 *within a distributed measurement system 1009 of an IP network 1005*. Connected to the network *outside of the distributed measurement system 1009* are multiple groups of user clients 1001-1004. While the probes execute within probe clients of a distributed measurement system located close to the group of end users running the client program (column 12, lines 3-10), Giroir does not teach or suggest, and in fact, *teaches away from*, placing the probe clients 1010 on a customer premises, as the distributed measurement systems 1009 are shown *within the IP network 1005* of Fig. 10, unlike the user clients 1001-1004. (Column 11, line 50, column 12, line 10. See also the master probe 1209 within the IP Network 1202 in Fig. 12, and not at the location of the TN3270 client 1201.) Thus, *Giroir does not teach or suggest a probe device located on a customer premises*, as provided for in claims 1, 21 and 41. Also, *Giroir makes no mention of wireless broadband routers*, much less a wireless broadband router located on a customer premises, as provided for in claims 1, 21 and 41.

#### B. Vogel

Generally, Vogel describes a system and method for monitoring wireless network performance. (Abstract.) As shown in Fig. 1, a probe server 104 receives monitoring parameters via a user interface 102. (Column 3, lines 24 and 25.) In response, the probe server 104 or an associated “post” 108 sends “probes” through a wireless network 110. (Column 3, lines 25-28.) The probes are typically *messages* sent through the wireless network 110 which cause the network 110 to respond with feedback information. (Column 7, lines 30-45; column 4, lines 4

and 5.) Thus, the probes of Vogel are messages, and thus are not probe devices, as provided for in claims 1, 21 and 41.

Assuming the post may be considered a probe device, Vogel indicates that “[t]he physical location of the post 108 is chosen to be an area where wireless communication with the wireless network 110 is known to function well” and “so that the post may monitor a desired area.” (Column 7, lines 6-12.) However, Vogel does not teach or suggest that the post 108 be located *on a customer premises*, as set forth in claims 1, 21 and 41 of the present application. In fact, Vogel does not mention a customer premises at all.

Assuming instead that the probe server 104 may be a probe device, Vogel states in conjunction with Fig. 4 that “[t]he user interface server 202 of the probe server 104 receives 404 the monitoring parameters from the user interface 102.” (Column 9, lines 29-31.) Fig. 1 indicates that “the user interface 102 communicates with the probe server 104 via a network 106.” (Column 3, lines 2 and 3.) Vogel further states that “[o]ne suitable network 106 is the Internet, although other networks may also be used. ... Alternatively, the user interface 102 may directly communicate with the probe server 104 without the use of a network 106.” (Column 3, lines 3-9.) Vogel does *not* indicate that the parameters are received by way of a wireless broadband router. Also, a word search indicates that *Vogel does not mention routers*, much less wireless broadband routers.

In addition, in Fig. 1 the probe server 104 and the posts 108 are shown *separately from the wireless network 110 being monitored*. Thus, Vogel does not indicate teach or suggest receiving instructions into a probe device through a wireless router, as asserted in the final Office action.

Thus, for at least these reasons, the Assignee contends claims 1, 21 and 41 are allowable, and such indication is respectfully requested.

*Claims 4-20, 24-40 and 44-60*

Further, as claims 4-20 depend from independent claim 1, claims 24-40 depend from independent claim 21, and claims 44-60 depend from independent claim 41, each of these sets of claims incorporates the limitations of its corresponding independent claims. Therefore, the Assignee contends that claims 4-20, 24-40 and 44-60 are allowable for at least the reasons

provided above regarding claims 1, 21 and 41, and such indication is respectfully requested.

*A. Claims 6-8, 26-28 and 46-48*

More specifically regarding claims 6-8, 26-28 and 46-48, which provide for one of the tests being a bulk file transfer test, the final Office action states that "Giroir teaches the method of claim 1, wherein one of the plurality of tests comprises a bulk file transfer test. (col 10, lines 17-67; col 11, lines 30-35)" (Page 3 of the final Office action.) The Assignee disagrees with the allegation. Giroir only discusses testing of server availability and response time by way of receiving an Application Welcome Screen as a result of requesting an SNA Application. (Fig. 7 and column 10, lines 20-30.) Thus, the probes of Giroir are not involved in bulk file transfers, much less using such transfers for testing purposes. Thus, the Assignee asserts that claims 6-8, 26-28 and 46-48 are allowable for at least this additional reason, and such indication is respectfully requested.

*B. Claims 18, 38 and 58*

As to claims 18, 38 and 58, which further provide for the performance information including download speed, the final Office action indicates that Giroir teaches such information, specifically at column 10, lines 55-65. (Page 4 of the final Office action.) The Assignee respectfully disagrees. Again, Giroir only teaches availability and response times of the connections with TN3270 servers, and does not teach or suggest testing or measuring download speed. Thus, the Assignee contends that claims 18, 38 and 58 are allowable for at least this additional reason, and such indication is respectfully requested.

*C. Claims 12, 32 and 52*

Additionally with respect to claims 12, 32 and 52, the final Office action indicates that Lipa teaches forward error correction testing, citing column 9, lines 1-60. (Page 5 of the final Office action.) The Assignee respectfully disagrees. Lipa appears to exclusively employ ping and reply packets for purposes of connection testing. (See column 6, line 57, to column 7, line 50; and column 8, line 25, to column 9, line 16, for example.) Lipa makes no mention of forward error correction testing. Thus, the Assignee asserts that claims 12, 32 and 52 are allowable for at least this additional reason, and such indication is respectfully requested.

*D. Claims 13, 14, 33, 34, 53 and 54*

More specifically regarding claims 13, 33 and 53, which provide for the plurality of tests including an out of lock indicator test, the final Office action indicates that Fijolek teaches such a test at column 8, lines 10-40. (Page 7 of the final Office action.) The Assignee respectfully disagrees with this assertion, as no mention is made of an out of lock indicator test. Also, as to claims 14, 34 and 54, which provide for an out of lock indicator test that determines the presence of a clean Quadrature Amplitude Modulation (QAM) signal, page 7 of the final Office action indicates that Fijolek teaches such a determination. The Assignee respectfully disagrees. Fijolek mentions the use of QAM as a modulation method (column 8, lines 19-28), but testing for an out of lock indicator signal, or for the presence of a clean QAM signal, is not discussed. Thus, the Assignee contends that claims 13, 14, 33, 34, 53 and 54 are allowable for at least these additional reasons, and such indication is respectfully requested.

Given the foregoing discussion, the Assignee respectfully requests that the rejections of claims 1, 4-21, 24-41 and 44-60 be withdrawn.

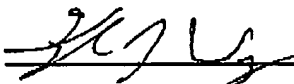
Conclusion

Based on the above remarks, the Assignee submits that claims 1, 4-21, 24-41 and 44-60 are allowable. Additional reasons in support of patentability exist, but such reasons are omitted in the interests of clarity and brevity. The Assignee thus respectfully requests allowance of claims 1, 4-21, 24-41 and 44-60.

The Assignee believes no additional fees are due with respect to this filing. However, should the Office determine additional fees are necessary, the Office is hereby authorized to charge Deposit Account No. 21-0765.

Respectfully submitted,

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